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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,121	01/18/2002	Randolph M. Howes	2514-0051-01	7866
27874	7590	07/12/2004	EXAMINER	
CALFEE, HALTER & GRISWOLD, LLP 1110 FIFTH THIRD CENTER 21 EAST STATE STREET COLUMBUS, OH 43215-4243			ART UNIT	PAPER NUMBER

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

Application No.

10/050,121

Applicant(s)

HOWES, RANDOLPH M.

Examiner

Frank I Choi

Art Unit

1616

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 4/23/2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

The concise statement of issues presented for review is incorrect in that claims 1-4,6-10,12-16,29 were rejected over the acknowledged prior art in view of McCaughan, Schraufstatter et al. and Beattie et al. (US Pat. 5,364,344). The elected invention is a method of treating a tumor by administering hydrogen peroxide and sodium hypochlorite to said tumor. Claims 10 and 16 indicate that the target site is a tumor, as such, there is no reason why claims 10 and 16 would be separately patentable unless Applicant is improperly appealing an invention which is broader in scope than the elected invention. Applicant's arguments do not appear to indicate how claims 10 and 16 are separately patentable from the elected invention.



S. MARK CLARDY  
PATENT EXAMINER  
GROUP 1200

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